

REMARKS

The Official Action mailed December 3, 2008, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on September 22, 2006; and February 15, 2007.

Claims 8-11 are pending in the present application prior to the above amendment, of which claims 8, 9 and 11 are independent. Claims 8-11 have been amended to better recite the features of the present invention. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

The Official Action apparently objects to the specification, asserting the following: "Paragraph 67: The transceiver 24-k should be connected to the network T" (Paper No. 20081111, Page 2; which refers to paragraph [0067] the pre-grant publication of the present application, i.e. U.S. Publication No. 2007/0249332). The Applicant respectfully disagrees and traverses the assertions in the Official Action. It is respectfully submitted that Paragraph 67 accurately discloses that "[t]he transceiver 24-k is connected to the control unit 21-k through the internal bus and also connected to the network N." This description is both proper and consistent with the remainder of the specification. For example, see Figure 2, and Paragraphs 54-55. Figure 3 further illustrates that "the telephone network T generates and wirelessly transmits a modulated wave representing data..." as described in Paragraph 69. Therefore, the Applicant respectfully submits that Paragraph 67 is proper.

Paragraph 2 (second occurrence) of the Official Action rejects claims 8-11 under 35 U.S.C. § 101 asserting that the claimed invention is drawn to more than one statutory class. Paragraph 3 of the Official Action rejects claims 8-11 under 35 U.S.C. § 112, second paragraph, asserting that 8 and 9 recite a structure and method and claim

11 recites both a structure and method. The Applicant has amended independent claims 8, 9 and 11 to recite "~~obtains and stores~~ means for obtaining and storing... and ~~provides providing...~~," and "~~retrieves,~~ means for retrieving..." Also, by citing MPEP § 2173.05(p), the Official Action appears to be asserting that the claims are directed to a product-by-process or product and process. The Applicant respectfully disagrees and traverses the assertions in the Official Action.

Claims 8-11 are clearly directed to a service class control system and claims 8 and 11 have been further amended to recite "wherein the terminal device comprises: means for obtaining and storing ...; and means for transmitting ...; and wherein the service class control server comprises means for retrieving" As such, the claims are clearly directed to a single statutory class, i.e. a system comprising various structures, which are expressed with "means for" expressions. The Applicant respectfully submits that the amended claims are drawn to a single statutory class and set forth what the Applicant considers to be the metes and bounds of the invention.

Further, a product-by-process claim "is a product claim that defines the claimed product in terms of the process by which it is made" (MPEP § 2173.05(p)). Claims 8-11 are not product-by-process claims. That is, claims 8-11 do not define the claimed product in terms of the process by which it is made.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §§ 101 and 112 are in order and respectfully requested.

Paragraph 5 of the Official Action rejects claims 8-11 as anticipated by U.S. Publication No. 2003/0027554 to Haumont. The Applicant respectfully submits that an anticipation rejection cannot be maintained against the independent claims of the present application, as amended.

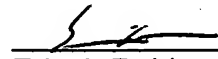
As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Applicant respectfully submits that an anticipation rejection cannot be maintained against the independent claims of the present application, as amended. Specifically, claims 8 and 11 have been amended to recite means for retrieving, from the means for storing, a service class data associated with the identification data which the terminal device has transmitted in response to reception of the interrogation signal, and verifying match among the retrieved service class data and the service class data which the terminal device has transmitted in response to reception of the interrogation signal, so that it is decided whether these two pieces of service class data coincide with each other. Similarly, claim 9 has been amended to recite means for retrieving, from the means for storing, a service class data associated with the identification data which the terminal device has transmitted to the service control server in response to reception of an interrogation signal via the wireless telephone network, and verifying match among the retrieved service class data and the service class data which the terminal device has transmitted in response to reception of the interrogation signal via the wireless telephone network, so that it is decided whether these two pieces of service class data coincide with each other. The above referenced features of the present invention are supported in the specification, for example, by steps referenced by labels S9 and S10 of Figure 4. The Applicant respectfully submits that Haumont does not teach the above-referenced features of the present invention, either explicitly or inherently.

Since Haumont does not teach all the elements of the independent claims, either explicitly or inherently, an anticipation rejection cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,


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